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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,610	07/12/2001	Yvon Buard	BIF114205/US	1296

466 7590 07/29/2003

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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,610

Applicant(s)

BUARD, YVON

Examiner

Ruth C. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8, 11, 14-16, 18 and 19 is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 10, 12, 13 and 17 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement filed 12 July 2001 has been considered for this Office Action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1- 4, 9, 10, 12, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent Document FR 2 731 496 A1 (FR '496).

FR '496 discloses a device (20) for joining at least two lengths (10) of a trunking adapted to bear against a support surface. The device includes a plate (20). Backs of the trunking base section have substantially plane rear faces adapted to bear against the support surface and opposite top faces (Fig. 1). The plate has a rear surface adapted to be flush with the rear faces of the backs. The plate has on each of its edges adjacent transverse edges of the trunking base sections rear and top longitudinal tongues (25,26,35,36) respectively adapted to bear on the rear face at the opposite top face of the corresponding back (Fig. 1). The rear tongues (25,35) are substantially flat (Figs. 1 and 2) and are accommodated rearwardly beyond the substantially plane rear face to bear elastically against the opposite faces of each panel (Fig. 1). FR '496 fails to disclose the thickness of the tongues. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rear tongues having a thickness from about 0.2 mm to about 1mm because a change in the size of a prior art device is a design consideration within the skill of the art. Specially, since the applicant does not provide any advantage derived from these dimensions. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). These devices are commonly used in business or office environment where reduction in cost is highly sought. The reduction in thickness of the tongues results also represents a reduction of cost of the material and therefore in reduction in the cost of the device. Additionally, it will also result in a lighter device that will be easier to install.

FR '496 also discloses that:

dimensions. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

FR '496 also discloses that

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- There are three longitudinal tongues (25,26,35,36) on each edge of the plate adjacent a transverse edge of a respective one of the trunking base sections (Figs. 1 and 2). The longitudinal tongues are disposed in an arrangement resembling the shape of a winners' podium (Figs. 1 and 2) where two of the three longitudinal tongues are top longitudinal tongues (26,36) spaced from each other and positioned on the top face of the plate so as to bear against the top face of the trunking base sections (Figs. 1 and 2). A central tongue (26,36) located between the two top longitudinal tongues is positioned on the rear face of the plate so as to bear against a rear face of the back of the trunking base section (Figs. 1 and 2).

- The longitudinal tongues have the same thickness (Figs. 1 and 2).
- The plate has two parts with an inside or outside corner between the parts of the plate (Figs. 1 and 2). Each transverse edge of each part of the plate adapted to be placed adjacent a transverse edge of the respective trunking base section is provided with longitudinal tongues (25,26,35,36).

- The trunking base sections have lateral flanges and the tongues are adapted to bear elastically also and the lateral flanges of the trunking base sections (Fig. 1).

- The parts of the plates are articulated together by a junction part forming a hinge (23) (Figs. 1 and 2).

- The plate is molded is of a one-piece plastic construction (Abstract).

For claim 17, FR '496 discloses that the top tongues are also substantially flat. FR '496 fails to disclose that the thickness of each of the top tongues is approximately 0.5 mm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide top tongues having a thickness from about 0.2 mm to about 1mm because a

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change in the size of a prior art device is a design consideration within the skill of the art. Specially, since the applicant does not provide any advantage derived from these dimensions. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). These devices are commonly used in business or office environment where reduction in cost is highly sought. The reduction in thickness of the tongues results also represents a reduction of cost of the material and therefore in reduction in the cost of the device. Additionally, it will also result in a lighter device that will be easier to install.

FR '496 fails to disclose that the thickness of each of the longitudinal tongues is approximately 0.5 mm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide tongues having a thickness from about 0.2 mm to about 1mm because a change in the size of a prior art device is a design consideration within the skill of the art. Specially, since the applicant does not provide any advantage derived from these dimensions. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). These devices are commonly used in business or office environment where reduction in cost is highly sought. The reduction in thickness of the tongues results also represents a reduction of cost of the material and therefore in reduction in the cost of the device. Additionally, it will also result in a lighter device that will be easier to install.

Allowable Subject Matter

5. Claims 5-8, 11 and 14-16 allowed.

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6. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 5, FR '496 discloses a device for connecting two lengths of extrusions.

However, FR '496 fails to disclose that the plate is plane with at least two transverse ends.

Accordingly, it would not have been obvious to one having ordinary skill in the art at the time the invention was made to have a plane plate with at least two transverse ends.

7. For claim 8, FR '496 fails to disclose that the plate carries in a top face pillar with an orifice. Likewise, it would not have been obvious to one having ordinary skill in the art at the time the invention was made to have an orifice located in a top face pillar of the plate that facilitates fixing the plate to a support.

8. Regarding claim 11, FR '496 discloses a device for connecting two lengths of extrusions.

However, FR '496 fails to disclose that the two parts of the plates are fixed to each other.

Therefore, it would not have been obvious to one having ordinary skill in the art at the time of applicant's invention to have the two parts of the plate being fixed to each other.

9. For claim 14, FR '496 discloses a device for connecting two lengths of extrusions.

However, FR '496 fails to disclose that the plate has at least one flat bottom and top tongues extending beyond one of the edges in a plane parallel to the plate where the tongues are spaced apart from each other by a space equal to the thickness of the plate. Likewise, it would not have been obvious to one having ordinary skill in the art at the time the invention was made to have at least one flat bottom tongue and at least one flat top tongue extending beyond one of the edges in a plane parallel to the plate where the bottom tongue and the top tongue are spaced apart from each other by a space equal to the thickness of the plate.

Response to Arguments

10. Applicant's arguments filed 30 April 2003 have been fully considered but they are not persuasive.

11. The Applicant argues that the rear face of the extrusion in FR '496 includes recessed adapted to receive the tongues by accommodating the tongues in the rear face of the extrusions and that this is contrary to his invention where the rear tongues are accommodated rearwardly beyond the substantially plane rear faces. The Examiner fails to agree with this argument. Once again the substantially plane rear face of the trunking base section is considered the entire rear portion of the trunking base section including the recesses recited above by the applicant. Since claim 1 recites "said rear tongues being accommodated rearwardly beyond the substantially plane rear faces", FR '496 still can be used to reject claim 1 for the reason that the rear tongues are accommodated rearwardly beyond the substantially plane rear faces since the recesses provided by FR '496 are part of the substantially plane rear face of the trunking base sections.

12. The next argument presented by the Applicant is directed to the change in size rejection made by the Examiner. The Applicant argues that the change in size rejection made by the Examiner is not obvious and proceeds to indicate how FR '496 reference works by using thick tongues to engage grooves provided in the rear face of the trunking base section. Additionally, the Applicant cites advantages over FR '496 not cited in the original disclosure. However, the only difference between the prior art and the actual claims is the recited dimensions. The part of the argument that center on how the device disclosed by FR '496 uses the grooves to have the tongues disposed in them is not relevant because the claim does not recite any limitation

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precluding the use of the grooves. With respect to the advantages recited by the Applicant, the Examiner acknowledges the recited advantages. However, these advantages are not provided in the original disclosure of the application where no importance was given to the dimensions of the longitudinal tongues. Finally, the Examiner has perfected the rejection of claim 1 to include that the reduction in thickness of the tongues will result in a reduction in the cost of the material used to make the device that is highly sought in a business or office environment.

13. Therefore, the rejection of claims 1, 9, 10, 12 and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent Document FR 2 731 496 A1.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Sutter (US 3,352,071), Wendt (US 3,989,398), Macuga et al. (US 4,114,326), Chou (US 5,671,580), Quillin (US 5,966,893) and Desrochers (US 6,408,922 B2) are cited to show state of the art with respect to connectors having at least one edge provided with tongues arranged in a winners' podium configuration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (703) 308-1881. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115.


Submissions of your responses by facsimile transmission are encouraged. Technology center 3600's facsimile number for before final communications is (703) 872-9326. Technology center 3600's facsimile number for after final communications is (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

RCR
rcr

July 28, 2003


J. J. SWANN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600